

NCA
VOC FOR PGM/FN
BACKGROUNDER NO. 5-6181
FRED BROWN

OCTOBER 4, 1978

BHUTTO APPEAL

ANNCR:

IN RAWALPINDI, PAKISTAN, THERE ARE SIGNS THAT THE SUPREME COURT HEARINGS ON THE APPEAL OF FORMER PRIME MINISTER ZULFIQAR ALI BHUTTO AGAINST HIS CONVICTION AND DEATH SENTENCE FOR POLITICAL MURDER MAY BE NEARING A CONCLUSION. CORRESPONDENT FRED BROWN HAS BEEN ATTENDING SOME OF THE SESSIONS AND FILED THIS BACKGROUND REPORT:

VOICE:

FOR THREE LONG MONTHS, ATTORNEYS FOR MISTER BHUTTO PAINSTAKINGLY PRESENTED THEIR ARGUMENTS FOR REVERSING THE VERDICT. FOR THE PAST TWO WEEKS NOW, THE PROSECUTION HAS BEEN TRYING TO DEMOLISH THOSE ARGUMENTS. SINCE THE TRIAL ITSELF LASTED SIX MONTHS, AND INVOLVED DOZENS OF WITNESSES, THE TESTIMONY RAN INTO THOUSANDS OF PAGES, ALL OF WHICH HAD TO BE GONE OVER POINT BY POINT. DESPITE SIGNS AT FIRST THAT THE GOVERNMENT MIGHT PRESS FOR A SWIFT DECISION, THE COURT HAS ALLOWED BOTH THE DEFENSE AND PROSECUTION TO TAKE THEIR TIME (OPT) -- ALTHOUGH IT HAS OCCASIONALLY EXPRESSED IMPATIENCE WITH BOTH WHEN IT FELT THEIR MANNER OF PRESENTATION WAS UNNECESSARILY TIME-CONSUMING OR CONFUSING. (END OPT)

MISTER BHUTTO WAS CONVICTED OF ORDERING MEMBERS OF HIS SPECIAL SECURITY FORCE TO KILL A POLITICAL OPPONENT IN 1974. THE INTENDED VICTIM -- AHMED RAZA KASURI -- ESCAPED THE AMBUSH LAID FOR HIM BUT HIS FATHER, WHO WAS RIDING WITH HIM IN A CAR, WAS KILLED. MUCH OF THE EVIDENCE AGAINST MISTER BHUTTO CAME FROM THE TESTIMONY OF FORMER OFFICIALS OF THE MISTER BHUTTO'S SPECIAL SECURITY FORCE, WHO SAID THEY PLANNED THE OPERATION ON ORDERS FROM

THE FORMER PRIME MINISTER. FOUR MEMBERS OF THE FORCE WERE ALSO CONVICTED AND, LIKE MISTER BHUTTO, WERE SENTENCED TO HANG DESPITE THEIR ARGUMENTS THAT THEY WERE ONLY CARRYING OUT ORDERS FROM ABOVE. THEIR APPEALS ALSO ARE BEING HEARD BY THE SUPREME COURT.

IN THEIR APPEAL AGAINST THE VERDICT, ATTORNEYS FOR MISTER BHUTTO HAVE ALLEGED BIAS ON THE PART OF THE LAHORE HIGH COURT AND THEY HAVE TRIED TO CAST SUSPICION ON TESTIMONY THEY CLAIM WAS OBTAINED IN EXCHANGE FOR FREEDOM FROM PROSECUTION. THE DEFENSE ALSO CLAIMED THAT MOST OF THE EVIDENCE USED BY THE PROSECUTION TO SUBSTANTIATE THE TESTIMONY WAS CIRCUMSTANTIAL -- ESPECIALLY THE EVIDENCE LINKING MISTER BHUTTO TO AN ALLEGED CONSPIRACY. IF THE CONSPIRACY CASE AGAINST MISTER BHUTTO IS NOT PROVEN, THE DEFENSE ARGUES, THE WHOLE CASE COLLAPSES.

THE PROSECUTION, FOR ITS PART, HAS BEEN WORKING HARD TO PROVE THE RELIABILITY OF THE EVIDENCE AND TO ESTABLISH THE DEGREE OF ENMITY BETWEEN MISTER BHUTTO AND MISTER KASURI IN ORDER TO PROVE THE MOTIVE. THE PROSECUTION ALSO HAS DWELT EXTENSIVELY ON ALLEGED EFFORTS BY AUTHORITIES TO BLOCK THE OFFICIAL INVESTIGATION AT THE TIME.

(OPT) THE PROSECUTION HAS INDICATED IT EXPECTS TO COMPLETE ITS PRESENTATION SOMETIME NEXT WEEK. AFTER THAT, THE DEFENSE WILL BE GIVEN ANOTHER OPPORTUNITY FOR REBUTTAL AND TIME WILL BE SET ASIDE FOR SPECIAL MOTIONS. SINCE THE COURT IS EXPECTED TO REQUIRE AT LEAST TWO WEEKS TO REACH A DECISION, THIS MEANS A RULING IS NOT EXPECTED UNTIL SOME TIME IN NOVEMBER. (END OPT)

THE SUPREME COURT HAS A WIDE VARIETY OF OPTIONS OPEN TO IT. IT COULD UPHOLD BOTH THE VERDICT AND THE SENTENCE. IT COULD UPHOLD THE VERDICT BUT DECIDE THE SENTENCE IS TOO STIFF, IN WHICH

CASE IT COULD REDUCE THE SENTENCE TO LIFE IMPRISONMENT. IN PAKISTAN THAT MEANS TWENTY YEARS. OR IT COULD REVERSE BOTH THE VERDICT AND THE SENTENCE. THE COURT MIGHT ALSO ORDER A NEW TRIAL. SINCE THE BENCH HAS NOW BEEN REDUCED FROM NINE TO EIGHT JUDGES, A SPLIT DECISION IS STILL ANOTHER POSSIBILITY.

IF BOTH THE VERDICT AND SENTENCE ARE UPHELD, THE CASE WOULD GO BACK TO THE LAHORE HIGH COURT TO HAVE A DATE SET FOR EXECUTION. AT THAT POINT THE PROCESS OF CLEMENCY PETITIONS COULD BEGIN, FIRST WITH THE GOVERNOR OF THE STATE OF PUNJAB. BUT CHANCES ARE A CLEMENCY PETITION WOULD END UP WITH THE MAN WHO OVERTHREW MISTER BHUTTO A YEAR AGO JULY -- PAKISTAN'S CHIEF MARTIAL LAW ADMINISTER AND NOW PRESIDENT, GENERAL MOHAMMED ZIA-UL-HAQ. SOME OBSERVERS HERE BELIEVE STILL ANOTHER ALTERNATIVE -- EXILE TO SOME COUNTRY LIKE SAUDI ARABIA OR CHINA -- ALSO IS A STRONG POSSIBILITY IF THE PRESSURES -- EITHER INTERNAL OR EXTERNAL -- ARE TOO GREAT.

WJL/RCS